IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 12059 of 2004

Between:

Sanakhan Mohd Noor, s/o late S.Abdul Salam,
R/o H.No.2-252, Bharpet, Adoni, Kurnool District.

..... PETITIONER

AND

1 The Superintendent of Police, Kurnool.
2 The Station House Officer, III Town Police Station,
Adoni, Kurnool District.
3 The Sub Inspector of Police, III Town Police Station,
Adoni, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, or order or direction, more particularly one in the nature of writ of mandamus to declare the inaction of the respondents in registering a crime in pursuance of my complaints dated 18-4-2004 and 5-5-2004 submitted to the respondents as arbitrary, illegal, unjust and violative of Article 14, 19 and 21 of Constitution of India, in the interest of justice.

Counsel for the Petitioner: MR.P.KESAVA RAO

Counsel for the Respondents: GP FOR HOME

The Court at the admission stage made the following:

ORDER:

The petitioner seeks a writ of Mandamus declaring the alleged inaction of the respondents in registering a crime in pursuance of his complaints dated 18.04.2004 and 05.05.2004, as arbitrary and illegal.

In the affidavit filed in support of the writ petition, it is stated that he is resident of Adoni of Kurnool District and that he is working as an agent in Life Insurance Corporation of India since 1986. It is further stated that his neighbours Mr.D.Asif and Mr.D.Arif are creating nuisance by resorting to coming in front of the house of the petitioner along with about 15 to 20 persons and chit-chating in a high pitch voice and thereby disturbing the peace and tranquility and they are also making unwarranted comments on the girls. Therefore, on 11.04.2004 and 16.04.2004, the petitioner made oral complaints with the Sub-Inspector of Police and the Assistant Sub-Inspector of Police, III Town Police Station, Adoni. In response to the same, the Assistant Sub-Inspector of Police has called them and warned them of serious action, if they resort to illegal acts resulting in nuisance and causing disturbance to others. However, the said D.Asif and D.Arif continued the same acts. In the circumstances, the petitioner lodged a written complaint on 18.04.2004 with the second respondent-

Station House Officer, III Town Police Station, Adoni. Since no action has been taken, the petitioner lodged another complaint dated 05.05.2004 with the first respondent-Superintendent of Police, Kurnool District. Alleging inaction on the part of the respondents 1 and 2, this writ petition is filed.

The third respondent - Sub-Inspector of Police, III Town Police Station, Adoni, filed a counter affidavit on behalf of the respondents on 19.07.2004 stating that on the basis of the complaint made by the petitioner dated 18.04.2004 alleging that there has been altercations between the petitioner and the said D.Asif and four others leading to injuries to both sides and they were also admitted in the hospital, the Assistant Sub-Inspector, P.Dastagiri, visited the hospital and recorded the statements of injured persons, namely, D.Asif as well as the petitioner and made an entry in the general diary on the same day. Thereafter, on receipt of the wound certificates in respect of D.Asif and the petitioner, cases in Crime No.32 of 2004 under Section 325 read with 34 of IPC against the petitioner and S.Sabir Hussain, and Crime No.33 of 2004 under Section 324 read with Section 34 of IPC were registered against D.Asif and four others and the same are pending investigation.

Thereafter the third respondent filed an additional counter affidavit dated 27.08.2004 stating that in the representation of the petitioner dated 05.05.2004 made to the first respondent-Superintendent of Police, no specific allegations were made with regard to the date or time of the alleged incident and there was no reference even with regard to the alleged written complaint dated 18.04.2004. Since Crime No.33 of 2004 dated 16.07.2004 was registered against Mr.D.Asif and four others, no action was taken in pursuant to the complaint, dated 05.05.2004. It is also stated that even after filing of the counter affidavit 19.07.2004, there was again an altercation between the petitioner and five others and one Mulla Karim and 15 others including D.Asif, on the intervening night of 25/26.07.2004 in respect of which Crime No.43 of 2004 under Section 160 Cr.P.C. was registered on 25.07.2004 against both the

groups. It is also stated that D.Asif and the petitioner filed private complaints before the Additional Judicial First Class Magistrate, Adoni under Section 200 Cr.P.C. in respect of the incidents dated 18.04.2004 and 25.07.2004 respectively and the said private complaints have been forwarded to the respondent Police Station by the Court for investigation. On receipt of the same, a case in Crime No.46 of 2004 under Section 326 IPC read with Section 156(3) Cr.P.C was registered against the petitioner and two others on 09.08.2004 basing on the private complaint of D.Asif. Similarly, a case in Crime No.47 of 2004 under Section 324 read with Section 156(3) Cr.P.C. was registered against D.Chand Bash and another on 09.08.2004 and the investigation in the said cases is pending.

Having regard to the detailed counter affidavit filed on behalf of the respondents which clearly shows that prompt action has been taken on the basis of the complaint lodged by the petitioner and particularly keeping in view that on the basis of the private complaint made by the petitioner before the learned Magistrate, the matter has been referred to the third respondent Police Station and the investigation is pending, I do not find any merit in the writ petition and the alleged inaction cannot be accepted. Accordingly, recording the statement of the respondents in the counter affidavit that necessary action has already been taken on the basis of the complaint lodged by the petitioner, the writ petition is disposed of. No costs.

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04.11.2004

VGB

To

1 The Superintendent of Police, Kurnool.
2 The Station House Officer, III Town Police Station,
Adoni, Kurnool District.
3 The Sub Inspector of Police, III Town Police Station,
Adoni, Kurnool District.

4 2CCs to the Government Pleader for Home, High Court Buildings,

Hyderabad (OUT)

5 2CD copies